

REMARKS

This preliminary amendment is being filed concurrently with an RCE application, and further is offered in response to the Office Action of November 15, 2002 and the Advisory Action of March 13, 2003.

In response to the rejection of the specification under 37 C.F.R. §1.71 and the rejection of the claims under 35 U.S.C. §112, first paragraph, the Applicant has further amended Claim 6 to recite "the closure elements of said reclosable zipper remaining in an interlocked configuration during said step of inserting said slider". It is respectfully submitted that this language is fully supported by page 6, lines 9-11 of the specification.

It is respectfully submitted that this resolves any ambiguity of language noted in the Advisory Action of March 13, 2003.

In the Office Action, claims 6-8 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. 09/631,179. The Applicant will consider filing a terminal disclaimer, if necessary, in the event that the application is otherwise in condition for allowance.

Claims 6-8 were rejected under 35 U.S.C. §102(b) as being anticipated by the Herz reference (U.S. Patent No. 3,790,992). Similarly, Claims 6-8 were rejected under 35 U.S.C. §103 as being obvious over the Herz reference in view of the Machacek reference (U.S. Patent No. 6,047,450) or the Richardson reference (U.S. Patent No. 5,442,838) or the Herrington reference (U.S. Patent No. 5,067,208) or, alternatively, the Machacek reference or Richardson reference or Herrington reference in view of the Herz reference.

In response, claim 6 was amended in the after-final amendment dated February 18, 2003 (the RCE transmittal papers filed simultaneously herewith request that this amendment be

entered) to clarify that the claimed steps of removing and inserting the slider occur after the claimed step of "filling each of said packages".

The Herz reference discloses the manufacture of an unfilled slider bag with an end seal, where the bag is later filled, perhaps manually by the consumer. Herz never contemplated filling the bag as part of the manufacture of the bag. There is no provision in the Herz reference for producing a filled bag, which would have required automatic opening and closing of the zipper by using the slider.

The remaining cited references appear to disclose specific zipper and slider configurations, but teach nothing to resolve the differences between the presently claimed invention and the cited Herz reference.

It is therefore respectfully submitted that Claims 6-8 are in immediate condition for allowance.

For all of the reasons above, it is respectfully submitted that the presently pending claims are in immediate condition for allowance. The Examiner is respectfully requested to withdraw his rejections of the claims, to allow the claims, and to pass this application to early issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald Levy", with a stylized flourish extending from the end.

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APPENDIX

Please amend Claim 6 as follows:

6. (Amended for a Fifth Time) The method of making packages having slider-operated zippers, said method comprising the steps of:

providing a supply of a series of concatenated packages, each of said packages having a slider-operated reclosable zipper;

filling each of said packages;

providing a supply of sliders, each of said sliders being insertable onto said reclosable zipper and adapted to open and close said reclosable zipper as said slider is moved along said reclosable zipper in opening and closing directions, respectively; and

for each of said packages, after said step of filling each of said packages, removing a slider from said slider supply and inserting said slider over said reclosable zipper at a section of said zipper, the closure elements of said reclosable zipper [being] remaining in an interlocked configuration during said step of inserting said slider.